



## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

#### 49 CFR Part 580

[Docket No. NHTSA-2019-0092]

#### Electronic Motor Vehicle Transactions Systems

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Request for comments.

**SUMMARY:** In a separate *Federal Register* document, NHTSA issued a final rule that will allow for state adoption of electronic odometer disclosure systems without having to petition the agency for approval. NHTSA believes that, with the promulgation of this final rule, there are no longer any Federal disclosure requirements that must be done through paper, rather than electronic, disclosures. Therefore, States now possess the necessary authority to adopt completely paperless vehicle transactions if they choose to do so, and experience in other sectors of the economy suggest that adopting paperless systems generally reduces unnecessary transaction costs and may yield additional efficiency gains as well. In this document, NHTSA requests comment on the nature and scope of these potential benefits for States, consumers, and other stakeholders such as dealers and insurance companies; any interest or plans among States in moving towards paperless systems; and what resources and guidance may be needed to assist States to transition to purely electronic systems.

**DATES:** You should submit comments early enough to ensure that Docket Management receives them not later than [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** You may submit comments to the docket number identified in the heading of this document by any of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- Mail: Docket Management Facility, M-30, U.S. Department of Transportation, West Building, Ground Floor, Rm. W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- Hand Delivery or Courier: West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., between 9 a.m. and 5 p.m. Eastern Standard Time, Monday through Friday, except Federal holidays.
- Fax: (202) 493-2251.

Regardless of how you submit your comments, you should mention the docket number of this document. You may call the Docket at (202) 366- 9324.

*Instructions:* For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the Supplementary Information section of this document. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the Privacy Act discussion below.

*Privacy Act:* In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its decision-making process. DOT posts these comments, without edit, including any personal information the commenter provides, to <http://www.regulations.gov>, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing

the comment, if submitted on behalf of an association, business, labor union, etc.).

*Confidential Information:* If you wish to submit any information under a claim of confidentiality, you should submit two copies of your complete submission, including the information you claim to be confidential business information, and one copy with the claimed confidential business information deleted from the document, to the Chief Counsel, NHTSA, at the address given below under FOR FURTHER INFORMATION CONTACT. In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above under ADDRESSES. When you send a comment containing information claimed to be confidential business information, you should follow the procedures set forth in 49 CFR part 512 and include a cover letter setting forth the information specified in our confidential business information regulation. (49 CFR part 512.)

*Docket:* For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> and follow the online instructions for accessing the dockets or go to the street address listed above.

**FOR FURTHER INFORMATION, CONTACT:** For policy and technical issues: Mr. David Sparks, Director, Office of Odometer Fraud, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., Washington, D.C. 20590. Telephone: (202) 366-5953. Email: [David.Sparks@dot.gov](mailto:David.Sparks@dot.gov). For legal issues: Mr. Thomas Healy, Office of the Chief Counsel, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., Washington, D.C. 20590. Telephone: (202) 366-5263.

**SUPPLEMENTARY INFORMATION:**

NHTSA has issued a final rule amending Part 580 to allow for the establishment of electronic odometer disclosure systems allowing odometer disclosures required by the Motor

Vehicle Information and Cost Savings Act (Cost Savings Act) to be made electronically (81 FR 16107). The odometer disclosure laws and regulations protect purchasers of motor vehicles from odometer fraud. *See* Public Law 92-513, 86 Stat. 947, 961-63 (1972). NHTSA had previously published a notice of proposed rulemaking (NPRM) for this rulemaking on Friday, March 25, 2016, and the comment period for the NPRM closed on May 24, 2016.

The scope of this rulemaking's cost-benefit analysis was limited to the direct effects of odometer disclosures, and thus the NPRM did not explore broader issues associated with adopting purely paperless transactions for automotive sales, particularly the wider benefits to States, consumers, and other stakeholders that could arise should States adopt such systems. To assist States and other stakeholders in assessing whether to adopt purely paperless procedures, NHTSA now seeks additional comments on these potential benefits and the plans and interest among the States in adopting these systems.

## **I. Background**

There were 17.3 million new vehicles<sup>1</sup> and approximately 40 million used vehicles<sup>2</sup> sold in the U.S. in 2018, but the total number of vehicle transactions is much larger because every consumer purchase and sale may involve multiple wholesale transactions, and because transfers to salvage companies or the scrapping of vehicles necessitates additional transactions by insurance companies and other stakeholders. Until the publication of today's final rule, Federal law prohibited electronic odometer disclosures except in and to the extent that a subset of States that had received specific NHTSA exemptions.

Now that NHTSA has lifted this general prohibition, the Department anticipates that States

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<sup>1</sup> The Year in Auto Sales: Facts, Figures and the Best Sellers from 2018, Automobile, (Jan. 4, 2019), *available at* <https://www.automobilemag.com/news/year-auto-sales-facts-figures-best-sellers-2018/> (last visited June 19, 2019).

<sup>2</sup> Used Vehicle Outlook 2019, Edmunds, *available at* <https://www.edmunds.com/industry/insights/> (last visited June 7, 2019).

may be interested in moving towards completely electronic transactions for motor vehicles. As experience in other sectors of the economy has demonstrated, electronic transactions would be expected to lead to many efficiency gains to the significant number of entities involved in motor vehicle transactions, including motor vehicle dealers; motor vehicle auction companies; insurance and casualty companies; banks, credit unions, and finance companies; salvage companies and junk yards; state departments of motor vehicles; and consumers; and all other persons or entities required to make odometer disclosures. For example, stakeholders will no longer be required to scan hard copy documents with wet signatures to retain or manage records electronically. Moreover, reductions in postage and delivery costs, including overnight delivery, will accrue from removing the need to mail hard copy documents with wet signatures. NHTSA also anticipates that paperless transactions will reduce the time needed to complete vehicle transactions, which could lead to substantial additional cost savings. States adopting electronic transaction systems may also see cost savings through reduction in records retention and retrieval costs and by eliminating the need to print titles on secure paper. NHTSA estimates that there are at least 48.5 million transactions involving odometer disclosures completed annually by motor vehicle dealers and private parties through private party sales that could potentially be conducted electronically as a result of the final rule if all states that have not already adopted electronic odometer disclosures decide to do so.<sup>3</sup>

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<sup>3</sup> Virginia, Wisconsin, New York, Florida, Texas and Arizona already have adopted some form of electronic odometer disclosure. These states together account for 5 million new vehicle sales. See Auto Retailing: State by State, National Automobile Dealers Association, <https://www.nada.org/statedata/> (last visited Jul. 22, 2019). Because NHTSA was not able to obtain used vehicle sales data by state, we are using vehicle registrations for each state as a percentage of total vehicle registrations as a proxy for used vehicle sales. Together Virginia, Wisconsin, New York, Florida, Texas and Arizona account for 24.9 percent of all vehicle registrations. See Highway Statistics Series, Office of Highway Policy Information, Federal Highway Administration, <https://www.fhwa.dot.gov/policyinformation/statistics/abstracts/2015/> (last visited Jul. 22, 2019). Based on this number, we estimate that there are approximately 10.12 million used vehicles sold in states employing some form of electronic odometer disclosure. We subtracted new and used vehicle sales in states already employing electronic odometer disclosure from the total number of new and used vehicle sales in 2018. Of these used vehicle sales,

Therefore, NHTSA believes that there is strong incentive for States to adopt electronic transaction systems. To assist States in making prudent decisions based on the best available evidence, in this document, NHTSA requests comment on the ways that adopting purely paperless transaction systems may reduce vehicle transaction costs for States, consumers, and other stakeholders. Specifically, can these systems reduce State transaction costs for receiving, processing, and storing odometer disclosures and creating titles? Also, will adopting purely paperless procedures reduce transaction costs for (i) wholesale transactions; (ii) auction transactions; (iii) salvage or junk transactions; or (iv) retail transactions? Moreover, what benefits will purely paperless transactions have for stakeholders, including from the following industries: (i) insurance; (ii) salvage and whole automobile auctions; (iii) new, used, and wholesale vehicle dealers; (iv) vehicle registration companies; and/or (v) technology companies providing systems for any of the above industries?

NHTSA also requests comment on any plans that States currently have to adopt electronic transaction systems now that the Federal requirement for paper odometer disclosures has been eliminated, as well as the general interest that States may have in adopting these systems even if no specific plans exist yet. In addition, NHTSA requests comment on the steps the agency can take to assist in assisting States in determining whether and how best to implement such procedures.

For instance, (i) what questions do States have in determining whether and how to implement

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approximately 70 to 75 percent are currently subject to the odometer disclosure requirements of part 580. *See Used Vehicle Outlook 2019*, Edmunds, *available at* <https://www.edmunds.com/industry/insights/> (last visited June 7, 2019). In 2017, approximately 71 percent of used vehicles were sold by either a franchise or independent dealer. We stated in the final rule that used vehicles sold through dealers will likely involve at least two odometer disclosures, one when the vehicle is wholesaled and again when the vehicle is retitled. We arrived at our estimate by determining the total number of used vehicle sales currently subject to odometer disclosure requirements in states without electronic disclosures and added this number to the number of used vehicles sold by dealers currently subject to the odometer disclosures in states without electronic disclosure. This number was added to the number of new vehicles sold in states without electronic disclosure. The equation is  $((29.88 \times .70) + (20.9 \times .71) + 12.7)$ . NHTSA seeks comment on whether this is a reasonable method of estimating the number of sales-related odometer disclosures in these states.

these systems and what can NHTSA do to help?; (ii) What can be done to support development of secure odometer disclosure programs and electronic titling systems more generally?; (iii) How can NHTSA support the interoperability of multiple state electronic titling systems?

Instructions for submitting comments are described above.

Issued in Washington, DC, pursuant to authority delegated in 49 CFR 1.81, 1.95, and 501.8(d).

Jonathan Charles Morrison,

Chief Counsel.

Billing Code: 4910-59-M

[FR Doc. 2019-20454 Filed: 9/26/2019 8:45 am; Publication Date: 9/27/2019]